

AMENDED IN ASSEMBLY JUNE 13, 2006

AMENDED IN SENATE MAY 27, 2005

AMENDED IN SENATE MARCH 30, 2005

SENATE BILL

No. 46

Introduced by Senator Alarcon

January 5, 2005

An act to ~~amend Sections 11750, 11750.1, 11751.35, 11752.6, 11752.8, and 11873 of, to add Section 11750.5 to, and to repeal and add Article 2 (commencing with Section 11730) of Chapter 3 of Part 3 of Division 2 of, the Insurance Code, and to add Chapter 8 (commencing with Section 180) to Division 1 of, and to add Section 6401.9 to, add Section 6720 to the Labor Code, relating to workers' compensation occupational safety and health.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 46, as amended, Alarcon. ~~Workers' compensation insurance. Occupational safety and health: masonry cutting.~~

~~Existing law generally regulates workers' compensation insurance rates. Existing law requires that rates be adequate to cover an insurer's losses and expenses, that they not tend to create a monopoly in the market, and that they not be unfairly discriminatory. Existing law requires workers' compensation insurers to file rates with the Insurance Commissioner, and allows the commissioner to disapprove rates that violate these provisions.~~

~~This bill would require, instead, that workers' compensation rates not be excessive, inadequate, or unfairly discriminatory, as described. The bill would revise the workers' compensation rate regulation procedures by establishing the Commission on Workers'~~

~~Compensation Rate Regulation, which would be responsible for setting pure premium rates, for adopting a uniform experience rating plan, for issuing minimum and maximum expense multipliers to be used by insurers, and for hearing appeals of rate decisions, as specified. The commission would be composed of the Governor, the Attorney General, and the commissioner, or their designees. The bill would set forth procedures for the conduct of public hearings on rate regulation, including procedures for the participation of intervenors and of a public advocate to be appointed by the Governor. The bill would require the commission to establish a policyholder ombudsman to provide information and assistance to policyholders regarding workers' compensation classifications and rates, and to prepare certain reports.~~

~~Existing law requires the commissioner to designate a rating organization to serve as his or her statistical advisor, to develop a classification system, to submit advisory pure premium rates to the commissioner, and to perform other specified duties. Existing law requires the commissioner to approve, disapprove, or modify the advisory pure premium rates submitted by the rating organization.~~

~~This bill would require the commission to designate a rating organization for the purposes described above. It would specify how the membership of the board of the rating organization is to be constituted.~~

~~Existing law requires that a workers' compensation insurer adhere to an experience rating plan. Existing law requires that an experience rating plan contain reasonable eligibility standards, provide adequate incentives for loss prevention, and provide for sufficient premium differentials so as to encourage safety.~~

~~This bill would, in addition, allow an employer to obtain a certificate of merit based upon the employer's safety program. It would require an insurer to provide a credit in a specified amount to an employer that obtains a certificate of merit. The bill would also require an insurer to grant a credit to an employer that provides health insurance to its employees, as specified, and a credit to an employer that has not had a claim during the previous 2 years.~~

~~The bill would require that an employer provide accurate information regarding the classification of its employees. A violation of this provision by an employer would be a crime pursuant to other provisions of law. By expanding the scope of an existing crime, the bill would impose a state-mandated local program.~~

~~Existing law establishes the State Compensation Insurance Fund for the purpose of transacting workers' compensation and related insurance, and exempts the fund from specified provisions of law applicable to other state agencies generally. Existing law requires every domestic insurer to submit to the commissioner, by a specified date, certain financial reports, including a risk-based capital report, as defined. Existing law allows the commissioner to take specified actions if this report indicates that certain financial conditions exist, and requires him or her to take other actions if the report indicates that certain other conditions exist.~~

~~This bill would exempt the State Compensation Insurance Fund from these provisions regarding risk-based capital.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

Existing law provides for the safety and health of employees by regulating various practices and procedures in the workplace to minimize exposure to health-endangering substances and materials.

This bill would prohibit the dry cutting and dry grinding of masonry materials, except where it is determined that the use of water in cutting or grinding masonry materials is not feasible, as specified. Where it is determined that the use of water is not feasible, this bill would require certain safety precautions in order to minimize the exposure of employees to masonry dust.

This bill would impose a state-mandated local program by creating workplace prohibitions and requirements, the violation of which would constitute a misdemeanor.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 6720 is added to the Labor Code, to*
2 *read:*

3 6720. (a) *In order to protect the safety and health of*
4 *employees against the effects of silicosis and other respiratory*
5 *diseases, the dry cutting of masonry units by means of hand-held,*
6 *gas-powered, or electrical portable chop saws or skill saws, and*
7 *the dry grinding of masonry materials, is prohibited, except in*
8 *instances in which it is determined, in a manner consistent with*
9 *all applicable standards promulgated pursuant to the federal*
10 *Occupational Safety and Health Act of 1970 (29 U.S.C. Sec. 651*
11 *et seq.), that the use of water in the cutting or grinding of*
12 *masonry materials is not feasible.*

13 (b) *In any instance in which it is determined, pursuant to this*
14 *section, that the use of water in the cutting or grinding of*
15 *masonry materials is not feasible, all of the following*
16 *requirements apply:*

17 (1) *The employer shall use engineering and work practice*
18 *controls, such as a vacuum with a high-efficiency particulate air*
19 *filter or other dust control system, to control the dust.*

20 (2) *Any dry cutting shall be done in a designated area away*
21 *from craftworkers, if possible.*

22 (3) *The employer shall provide employees with full face*
23 *respirators as part of a complete respiratory program that*
24 *includes training, the proper selection of respiratory cartridges,*
25 *and fit-testing to ensure that the employees are able to wear the*
26 *respirators.*

27 (c) *This section does not apply to emergency service personnel*
28 *responding to emergency situations.*

29 SEC. 2. *No reimbursement is required by this act pursuant to*
30 *Section 6 of Article XIII B of the California Constitution because*
31 *the only costs that may be incurred by a local agency or school*
32 *district will be incurred because this act creates a new crime or*
33 *infraction, eliminates a crime or infraction, or changes the*
34 *penalty for a crime or infraction, within the meaning of Section*
35 *17556 of the Government Code, or changes the definition of a*
36 *crime within the meaning of Section 6 of Article XIII B of the*
37 *California Constitution.*

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**All matter omitted in this version of the bill
appears in the bill as amended in Senate,
May 27, 2005 (JR11)**

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